Supreme Court, U. S.
FILED
NOV 23 1976
MICHAEL RODAK, JR., CLERK

No. 75-1868

In the

Supreme Court of the United States

OCTOBER TERM, 1976

NATIONAL GEOGRAPHIC SOCIETY,

Appellant,

vs.

BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA,

Appellee.

On Appeal From The Supreme Court Of The State Of California

MOTION TO PARTICIPATE AS AMICUS CURIAE

HAROLD T. HALFPENNY
JAMES F. FLANAGAN
LOUIS R. MARCHESE
111 West Washington Street
Chicago, Illinois 60602
Attorneys for Direct Mail/
Marketing Association, Inc.

HALFPENNY, HAHN & ROCHE
Chicago, Illinois
Of Counsel

The Scheffer Press, Inc.—(312) 263-6850

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1976

No. 75-1868

NATIONAL GEOGRAPHIC SOCIETY,

Appellant,

vs.

BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA,

Appellee.

On Appeal From The Supreme Court Of The State Of California

MOTION TO PARTICIPATE AS AMICUS CURIAE

Direct Mail/Marketing Association, Inc., a national trade association, respectfully moves this Honorable Court for leave to file the attached brief *amicus*. The attorneys for petitioners and respondents have consented to such filing.

The Direct Mail/Marketing Association (DMMA) is an international trade association with a membership of over 1,700 firms located in 48 states plus 30 foreign countries. To meet their needs, DMMA provides educational meetings, special research and specific information

about ways members can effectively sell their goods and services more efficiently.

Direct mail can be and is used by nearly every business organization. Two of every three bulk mail permit holders are small companies doing less than $500,000.00 annually and ninety percent (90%) have fewer than 100 employees.

The United States Postal Service Revenue and Cost Analysis Division indicates that 2.49 billion catalogues were sent through the mail in fiscal 1973 and in 1974 the number sent through the mail reached 2.65 billion. It is estimated that sixty (60) billion dollars worth of goods and services are generated in sales through direct mail each year, and members of the association do seventy percent (70%) of this volume. Thus, members of the association are constantly engaged in interstate commerce and are subject to the interpretations on jurisdiction with which this litigation is concerned.

The opinion of the Supreme Court of California has added additional confusion and uncertainty to a field of law already noted for its amorphous quality. The parties herein are properly concerned with establishing their position on the facts of the case. DMMA, however, respectfully requests that the Court, in considering the specific issues in the case, also give consideration to the broader aspects of the problem.

In view of all these factors, your petitioner believes that research and expression of opinion by independent counsel representing persons engaged in and concerned with interstate commerce will be helpful to this Court.

Petitioner represents that it has received the consent of National Geographic Society and the Board of Equalization of the State of California to his filing of a brief

as *amicus curiae* and requests permission to intervene for the purpose of filing instanter a brief as *amicus curiae,* urging reversal of the decision of the California Supreme Court and in support of the appeal filed by National Geographic Society.

Respectfully submitted,

HAROLD T. HALFPENNY
JAMES F. FLANAGAN
LOUIS R. MARCHESE
111 West Washington Street
Chicago, Illinois 60602
Attorneys for Direct Mail/ Marketing Association, Inc.

HALFPENNY, HAHN & ROCHE
Chicago, Illinois
Of Counsel